

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Pitts
Serial Number: 09/970,587
Filed: 10/04/2001
Group Art Unit: 3682
Examiner: Charles, Marcus
Title: ELEVATOR BELT ASSEMBLY WITH NOISE
REDUCING GROOVE ARRANGEMENT
Attorney Docket Number: 60,469-053; OT-4987

REPLY BRIEF

Box AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is responsive to the Examiner's Answer mailed December 31, 2008.

There is no *prima facie* case of obviousness. The *Kokai* reference relied upon by the Examiner teaches away from the proposed combination. The Supreme Court emphasized in *KSR Int'l Co. v. Teleflex, Inc.*, 550 US 398 (2006) that when a reference teaches away from a proposed combination, the claimed invention cannot be considered obvious. In other words, when a reference teaches away from a proposed modification, there is no *prima facie* case of obviousness because the proposed combination cannot be made.

In this case the *Kokai* reference teaches away from the proposed combination. The Examiner proposes substituting *varied spacing* between *Kokai*'s grooves even though the reference explicitly requires *equal spacing* for a definite reason. The *Kokai* reference does not leave it to the

reader's imagination or interpretation what type of spacing is required between the grooves in the *Kokai* reference. That document repeatedly and explicitly states that *equal spacing* between the grooves *is required* to keep the cords aligned as desired. The Examiner is wrong when contending that the *Kokai* "grooves are not deep enough to touch the core wires." (Examiner's Answer, page 5) Figure 12 of *Kokai* clearly shows grooves 4 extending up to the core wires 3. The description in that reference also clearly indicates that the grooves are related to the process of positioning the core wires during belt manufacture.

There is nothing within the art that suggests going against the direct and explicit teachings of the *Kokai* reference. The Examiner's proposed combination undoes the express teachings of the primary reference. That is not permissible when attempting to establish a *prima facie* case of obviousness.

In addition to the fact that the *Kokai* reference teaches away from the proposed combination, the fact that the proposed modification interferes with *Kokai's* ability to achieve its intended result renders the proposed combination improper. The Examiner's proposed modification would interfere with *Kokai's* ability to keep the cords aligned as desired. If proper cord alignment is not maintained in an elevator belt of that type, the belt is not useful for its intended purpose. *Kokai* specifically teaches equal spacing between grooves to achieve its intended result (e.g., having an elevator belt with cords properly aligned so that it is actually useful for an elevator system). The Examiner cannot take away the equal spacing from that reference and the proposed combination cannot be made.

Assuming for sake of argument only that the proposed combination were somehow considered proper, the Examiner offers no explanation for how one skilled in the art would be lead to make the proposed combination of the *Kokai* and *Miranti* references. Absent Applicant's own

disclosure, there is no basis to believe that varying the explicitly stated, intentional equal spacing in the *Kokai* reference would have any benefit or usefulness. The skilled artisan would not be led to believe that the *Miranti* arrangement of grooves that addresses noise generation as side surfaces on a V-shaped belt exit a V-shaped pulley would have any applicability or use in the *Kokai* arrangement where there is no contact between side surfaces of the belt and side surfaces of a pulley and wherein separation between the *Kokai* belt and pulley is not considered a source of possible noise. Because the added teachings of *Miranti* do not provide any benefit in *Kokai* arrangement (i.e., there is no separation-generated noise in the *Kokai* reference, which is what is addressed by the *Miranti* reference), there is no reason for making the combination.

Additionally, there are significant differences between an elevator belt like that used in the *Kokai* reference and the endless power transmission belt of the *Miranti* reference. For example, the larger length of an elevator belt presents different vibrational and noise generating behavior than a power transmission belt. The changing loads on an elevator belt, for example, and the changes in belt length between the loaded ends of the belt and the sheave contacting the belt, do not occur with an endless power transmission belt in its intended use. The significant differences, which cannot be ignored, make it difficult, at best, to see how a skilled artisan would find *Miranti's* teachings useful for *Kokai's* arrangement.

Regarding claim 22, the Examiner is wrong that the claim does not require two different angles. The claimed first angle is different than the claimed second angle. Otherwise, the terms first and second would be meaningless. The words of the claim cannot be read out of the claim when interpreting it (regardless of how broadly the Patent Office is entitled to go in that interpretation). The Examiner's position effectively deletes "first" and "second" from the claim.

None of the claims can be considered obvious because the proposed combination cannot be made. Applicant respectfully submits that all claims are allowable.

Respectfully submitted,

CARLSON, GASKEY & OLDS, P.C.

March 2, 2009

Date

A handwritten signature in black ink, appearing to read "David J. Gaskey", is written over a horizontal line.

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